

Kimberly Y. Robinson, Esq.
Regulatory & State Government Affairs Director



December 4, 2020

Lisa Larson
Regulations Manager
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, Maryland 21202

Routing B6LPA
900 Cottage Grove Road
Hartford, CT 06152
Telephone 860.907.6396
Kimberly.Robinson@Cigna.com

Sent via email to InsuranceRegReview.mia@maryland.gov

Re: Draft Proposed Regulations 31.10.44.02 Network Adequacy

Dear Ms. Larson:

Thank you for the opportunity to provide the Maryland Insurance Administration (MIA) comments on Draft Proposed Regulations 31.10.44 regarding Network Adequacy on behalf of Cigna. Cigna appreciates the work the Maryland Insurance Administration (MIA) has done on this issue from 2016 to date and also appreciates the collaborative process throughout.

Cigna adopts by reference the comments provided by the League of Life and Health Insurers and America's Health Insurance Plans. We will provide some general thoughts at the outset followed by more specific responses to specific provisions within the regulations.

General concerns

Provider engagement

Providing a sufficient and comprehensive provider network for all our customers incredibly important to Cigna. Our provider contracting teams work diligently to recruit and contract with providers and our provider relations professionals work to keep those providers engaged and participating in our network. Cigna is supportive of the intentions of the draft proposed regulations. Throughout the development of Maryland's network adequacy statute and the regulations, carriers have emphasized that an approach to monitoring network adequacy which focuses exclusively on carriers is incomplete. The revisions within the draft proposed regulations do not address the gaps and data access challenges that exist in the current regulation and, in many ways, exacerbates them. The regulations do not examine the impact of existing provider shortages in the state and their impact on carriers' ability to meet the stated standards. The significant increases in required provider surveys and the need to place increasing administrative burden and pressure on providers through repeated inquiries from every carrier in the market will further disincentivize participation by providers who can sustain their business model without private insurance participation. Carriers may have options to leverage responses from providers, however, exacerbating administrative burdens for providers by threatening their reimbursement or network status will not benefit consumers. We encourage the MIA to engage the carrier and provider communities together to better understand where provider shortages exist,

"Cigna" is a registered service mark, and the "Tree of Life" logo is a service mark, of Cigna Intellectual Property, Inc., licensed for use by Cigna Corporation and its operating subsidiaries. All products and services are provided by or through such operating subsidiaries and not by Cigna Corporation. Such operating subsidiaries include Connecticut General Life Insurance Company, Cigna Health and Life Insurance Company, and HMO or service company subsidiaries of Cigna Health Corporation and Cigna Dental Health, Inc.

understand the capacity of existing providers, understand the concerns about overly burdensome data requests to providers, and secure provider buy in to make such requirements effective.

Standardized form

We encourage the MIA to engage carriers in the development of the standardized form to ensure it is a document that both meets the MIA's needs and can be easily completed by carriers. We look forward to being a resource in the development of the document.

Effective Date

Cigna requests the MIA consider making the revisions to the regulations effective for the July 2022 report. Due to the state's moratorium on the submission regulations, it seems unlikely the regulation would be finalized before March 2021, roughly three months before the 2021 access reports are due to the MIA. It is not feasible to begin implementing the data collection before the regulations final language is known. Further, data collection for the July 2021 report based on the existing regulation would have already begun, as the current report requires significant time and resources to complete. Given the likely timing when the regulations will be finalized and the significant changes in methodology being proposed, there are several proposed changes that will take significant investment to implement and are unlikely to be successfully implemented in time to include the data in a 2021 report.

Comments on Draft Proposed Regulations 31.10.44

31.10.44.03 Network Adequacy Standards

31.10.44.03B(1) requires a carrier to monitor its provider network for compliance with the network adequacy regulations on at least a monthly basis. Networks are continually monitored. Provider networks do not experience significant change month to month. The need to assess impact to the network occurs when there is a significant departure of a provider group or facility or a significant addition of enrollees. These changes are rarely experienced on a monthly basis. This provision seems to be overly and unnecessarily prescriptive. A requirement that carriers monitor for changes that would the impact the network on an ongoing basis remains more appropriate. We request that the monthly requirement be deleted.

31.10.44.03B(2) requires a carrier to monitor out of network costs to customers *when network providers are not available* and report this information on a form provided by the Administration on a quarterly basis. Customers within PPO and open access products have an out of network benefit that they are free to exercise at their discretion. Unless a customer specifically informs Cigna that they have seen an out of network provider *because* a network provider was unavailable, we do not know the reason the customer saw an out of network provider. Cigna requests that this provision be removed from the draft proposed regulation.

31.10.44.04 Filing of Access Plan

31.10.44.04C(5)(b) requires carriers to report, for each hospital, the percentage of the following types of providers practicing in the hospital who are participating providers in the carrier's network: on-call

physicians, hospital-based physicians, anesthesiologists, and radiologists. It also requires carriers to report whether any non-physician providers, who routinely provide services to patients, are non-participating providers. Cigna appreciates that there are a number of reasons this information may be of interest to the MIA. This information is not easy to determine from the information generally available to carriers and will require assistance from hospitals who determine which provider groups and on-call physicians have privileges at the facility. Given that this is a reporting only requirement and does not set an actual network adequacy standard, we believe the MIA should have a separate discussion with carriers about what issue this provision seeks to address and options for addressing those concerns outside of the Network Adequacy Standards regulation. Cigna requests that this provision be removed from the draft proposed regulation.

31.10.44.05 Travel Distance Standards

31.10.44.05A(1)(d)(ii) requires carriers to describe any analysis or assessment of how public transportation is taken into account when considering enrollees' access to care under the travel distance standards to determine provider access for zip codes where a significant portion of the population does not own a personal automobile. We are unfamiliar with what appropriate source carriers would use to determine to which zip codes this requirement would apply. Understanding barriers to access for customers is important. We believe a more robust conversation about how best to address this issue and assess the implication for network should be undertaken before a requirement is added to the standards.

31.10.44.05C. Cigna recommends maintaining the current 30% participation requirement consistent with the federal requirement for Essential Community Providers. Cigna is still working to understand the impact of what is required by the "MHBE ECP Network Calculation Methodology" as it is not applicable to our current business.

31.10.44.06 Appointment Waiting Time Standards

The wait time standards have been a subject of significant conversation throughout the review of these regulations. Cigna understands why there is a desire to quantify wait times. Quantifying this measure in a meaningful way is difficult under the current regulations and remains difficult under this draft. Because carriers do not have an active role in obtaining appointments for customers, and because carriers do not have direct oversight of provider offices, it is impossible for a carrier to truly know what the wait time is for a specific customer with a specific provider. The need to determine this information via survey is the first hurdle. The new language creates a cumbersome quarterly assessment process, will require a significant burden on providers who will now be required to respond to carrier inquiries quarterly, includes customer surveys which come with their own set of pitfalls, and requires publication of data without regard to whether the data obtained represents meaningful information or an accurate assessment of wait times. While the proposal creates a uniform methodology for all carriers, it does not address the fundamental reasons why this standard is difficult to assess in a meaningful way. We believe further discussion around how to better assess wait times is needed.

31.10.44.09 Confidential Information in Access Plans

31.10.44.09A is revised to replace references to “Methodology” with “Propriety Methodology” regarding information in an access plan that is considered confidential. Cigna is concerned with this change. There is no definition of “proprietary methodology” in the regulation. As a result, we are unsure how the MIA will determine what is and what is not a “proprietary methodology.” Creating a standard that treats only “proprietary” methodologies as confidential also creates ambiguity as to what methodologies are considered confidential and may result in carriers’ methodologies being made public even if they are not what may considered a standardized methodology. Given the need to file a specific request to keep information that falls outside of the safe harbor confidential, without better insight as to what “proprietary methodology” means, it would seem carriers must make a filing regarding each methodology within the plan, negating the impact of this regulation. We urge the MIA to remove this change.

Again, thank you for the opportunity comment on these proposed draft regulations. We look forward to participating in the ongoing stakeholder discussions regarding the regulation and doing our part to assist the MIA in crafting regulations that monitor and assess networks in an accurate and meaningful way.

Sincerely,

Kimberly Y. Robinson

Kimberly Y. Robinson, Esq.
Director, Regulatory and State Government Affairs